

REMARKS

This responds to the Office Action mailed on April 23, 2004. This response cancels no claims, amends claims 68, 82, and 92, and adds no new claims. As a result, claims 68-95 remain pending in the Application.

Claims 68-70, 78, 79, 82-85, 87, 89, and 92-95 were rejected under 35 USC §103(a) as unpatentable over Beyda et al. (U.S. 6,404,873). Applicant respectfully traverses these rejections.

The Beyda reference offers a digital system for telephone conferencing among a number of terminals all connected to a central gatekeeper. One or more of the terminals can set up a subconference among two or more of the terminals; subconference voice data is mixed with voice data for the full conference.

Although any of the terminals in the network can select any of the others to participate in a conference or a subconference, selecting any terminal for participation inherently selects that terminal to both transmit and receive voice data to the others. When any terminal A in Beyda's system selects any of the other terminals B and/or C to source data to it (that is, A receives voice data from B/C), that terminal A is also by the same selection inherently selected to sink voice data from B/C (that is, A transmits voice data to B/C). Any of the (sub)conference members speaks to all of the other selected members and listens to all of the other selected members. Beyda thus has no source and sink modes that are separate from each other.

Applicant, on the other hand, provides separate selections for a network device: Device A may have a source mode that can be selected so that device B sources data¹ to A, while A also has a sink mode that can select a different device C to sink data from A. That is, while A receives data from B, device A transmits data to a different device C.

Independent claim 68 expresses this departure from any capability taught in or suggested by Beyda.

Par. 4.a.i. of the Office Action states that

“{...[E]ach device sends voice data out to the gatekeeper, therefore there are multiple source modes) each identifying at least one other mutually different device ... to receive data from the each device.

¹ ---Data of any kind, not just voice.

However, this is backward from the way that source modes are defined in the claim. A source mode identifies “one other mutually different device of the plurality of devices to receive data from the each device.” That is, the “each” device receives data from the “different” devices. The fact that different ones of Beyda’s devices may selectively send data to one device, the gatekeeper thus does not meet this recitation.

In the same paragraph, the assertion

“when the first terminal is solely transferring data to second [sic] terminal, it is at the state of ‘without identifying any of the devices to provide data to the each device’”

is not correct. Whether or not one terminal is actually transferring data is irrelevant to “identifying” that the terminals are to transfer data.. It would obviously be incorrect to allege, for instance, that two telephones are not connected when neither speaker happens to be talking, or that telephone A is not identified as receiving voice from telephone A when A is silent.. In the *Response to Arguments* section of the Office Action, par. 25.a. states that

“[A]lthough Beyda’s links are bidirectional, but [sic] at the instance [sic] when A is transmitting data to device Bit is not necessary for device A to receive data from device B. Therefore the device B is not identified for providing data to device A, since device B at the instance [sic] is not providing any data to device B.”

Again, whether or not actual data is or is not being transmitted at any given time is immaterial to whether or not a connection has been identified over which data can be transferred when there is data to transfer.

The Office Action statements in par. 4.b. following “Beyda has not explicitly taught the limitation of selecting the multiple source modes and the multiple sink nodes independently of each other” are irrelevant to claim 68. They entirely ignore the words “selecting” and “independently.” Whether Beyda may employ a single bidirectional wire or two separate unidirectional wires for data transfer has nothing to do with the claim language. The claim says that *selecting* the multiple source nodes (i.e., selecting which device is to transmit to the “each device”) is independent of *selecting* the multiple sink nodes (selecting which device is to receive from the “each device”).

Similarly to par. 4.a.i., par. 4.a.ii. of the Office Action states that

“{...[E]ach device receives voice data from the gatekeeper, therefore there are multiple source modes) each identifying at least one other mutually different device ... to provide data to the each device.

This reverses the way that sink modes are defined in the claim. A sink mode identifies “one other mutually different device of the plurality of devices to provide data to the each device.” That is, the “each” device transmits data to the “different” devices. The fact that one device, Beyda’s gatekeeper, may send data selectively to any several different devices does not meet this recitation.

Paragraph 4.a.ii.) also contains the incorrect assertion that Beyda does not identify a connection between two devices when only one of them is receiving data; the connection is still identified even when one of the devices happens not to be receiving data. Beyda contains no suggestion that a connection ceases to exist when no data is being transmitted or received at a given instant of time.

In par. 4.b., the cited text of the reference contradicts the assertion that

“at least a first the three devices [in figures 1, 3-5] is configurable to provide data to a second of the devices ... without providing data to a third device ... (... first device would only provide data to a second device without providing data to a third device if the mode is only indicating the data transmission from the third device to the device), and is configurable to receive data from the third device without receiving data from the second device (this happens when a mode is indicating the first device only receives data from the third device.)”

In the first place, the cited passages only speak of two devices:

“Subsequently a first terminal within the main conference call transmits a first subconference call request to a second terminal that is also entered in the main conference call. (col. 2 lines 37-40)

and

“During the first subconference call, voice data transmitted from the first terminal is addressed only to the second terminal and voice data transmitted from the second terminal is addressed only to the first terminal.” (col. 2 lines 55-58)

So these passages do not even mention a third device. Secondly, the parenthetical parts of the above passages in the Office Action seem to make no sense. There are no such modes in Beyda,

the Office Action makes conclusory statements that such modes exist, but has never pointed them out specifically. Applicant declares again that all “modes” that Beyda transfer voice data in both directions. Beyda cannot specify that telephone A transmits data to telephone B without ipso facto specifying that telephone A receives data from telephone B.

Par. 25.b. of the Office Action maintains that

“[The Examiner agrees with applicant’s argument that Beyda might not configure the network so that a person can pick up the telephone and speaks *[sic]* to the computer but hear from the gateway. However, the claim language does not claim so.”

This is not correct. Consider the recitation

“such that ... at least a first of the three devices is adapted to provide data to a second of the devices in the plurality without providing data to a third device in the plurality, and is adapted to receive data from the third device without receiving data from the second device.”

Let the “first of the three devices” be a telephone. Let the “second device” be a computer. Let the “third device” be a gateway. Substituting into claim 68:

“such that ... at least a telephone is adapted to provide data to a computer in the plurality without providing data to a gateway in the plurality, and is adapted to receive data from the gateway without receiving data from the computer.”

The Office is not permitted to give a claim an interpretation broader than its plain words.

Finally, par. 35.b. declares that the claim “does not clearly state that a telephone is configured to speak to the computer and hear from the gateway **at the same time**.” [emphasis in original]. Applicant believes that every reasonable interpretation of the claim language would assume that the claim elements relate to each other in the recited manner at the same time. To forestall any doubt, however, claim 58 is amended to recite that the three devices in the above recitation are adapted to operate in the manner specified “during a time period when the connection exists.”² The amendments make explicit what was already inherent in the original claim. Hence they do not narrow its scope.

Independent method claims 82 and 92 were rejected in par. 9 and par. 13 of the Office Action for the same reasons as was claim 68. The arguments adduced above in connection with

² ---“Configurable” has been changed to “adapted to” to eliminate any ambiguity; the establishment of the recited connection has already configured the network.

claim 68 also apply to these claims, so that they define patentably over Beyda for the same reasons. Dependent claims 69-70, 79m 83-85, 87, and 93-95 incorporate all the recitations of their respective parents, and thus define over Beyda for the above reasons, and for others as well.

Dependent claims 71-77 and 86 were rejected under 35 USC §103(a) as unpatentable over Beyda et al. in view of Perrone (U.S. 6,418,199). These rejections are also respectfully traversed. Perrone proposes a system which involves voice “control” of a computer, but which, unlike Beyda’s or Applicant’s systems, is not a streaming data system for communicating large amounts of time-sensitive data.. The voice data exists only in small amounts and is used for an entirely different purpose, making any combination with Beyda a hindsight reconstruction impermissible under 35 USC §103. In addition, however Perrone brings to the table only an external network. In view of the deficiencies of Beyda, even an improper combination of these two references cannot reach the recitations of the parent and dependent claims.

Dependent claims 80, 81, 90 and 91 were rejected under 35 USC §103(a) as being unpatentable over Beyda et al. in view of Klug (U.S. 5,799,320). These rejections are respectfully traversed. Par. 19 asserts that

“Klug has taught a locking mechanism to lock out PC [*sic*] from accessing data when there is a large number of PC [*sic*] accessing data and caused [*sic*] the system to be slow. (Col 11 lines 10-16)”

Neither Beyda nor Applicant is concerned with preventing data access, or with slow system speeds. Therefore, this reference is wholly inapplicable, and there is no motivation for one skilled in the art to consider it in designing a streaming-data system. In addition to this improper combination under 35 USC §103, even an improper combination does not reach the totality of recitations. For example, claim 80 is “adapted to lock the mode” of a device in the network. From the parent claims, the mode specifies which devices transmit to and receive from other devices. Klug does not have this capability in mind.

Dependent claim 88 was rejected under 35 USC §103(a) as unpatentable over Beyda et al. in view of Cohn (U.S. 6,411,684). This rejection is also traversed. Cohn’s multimedia system does not begin to make up the deficiencies of the primary Beyda reference as to the combination of claim 88 with its parent claims 82 and 87. Cohn presents a mere item-by-item

list of functions in a totally different system, one concerned with how to rout data through many hubs and networks in order to get it to one particular destination.

Conclusion

For the above and other reasons, Applicant urges that all the claims meet the statutory requirements, and respectfully requests their reexamination and allowance. The Examiner is invited to telephone Applicant's attorney at (612) 373-6971 to facilitate prosecution of this Application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

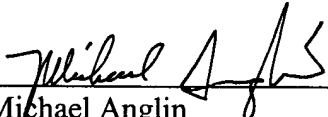
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 18 day of August, 2004.

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